

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

ROBERT L. SCHULZ, 2458 Ridge Road,
Queensbury, NY 12804;

Plaintiff

v.

UNITED STATES; INTERNAL REVENUE
SERVICE, 1111 Constitution Ave. NW,
Washington, D.C. 20220, John Koskinen,
Commissioner;

Defendants

ORDER TO SHOW CAUSE

CASE No. 1:15-cv-1299
BKS/CFH

U.S. DISTRICT COURT
N.D. OF N.Y.
FILED

JAN 04 2016

LAWRENCE K. BAERMAN, CLERK
ALBANY

Upon the annexed affidavit of ROBERT L. SCHULZ, upon all the prior proceedings in this matter, and upon this Motion by ROBERT L. SCHULZ, it is

ORDERED, that attorney for defendant UNITED STATES and attorney for defendant INTERNAL REVENUE SERVICE show cause at a term of the Court to be held at James T. Foley U.S. Courthouse, 445 Broadway, Albany, NY 1222307 on the ____ day of _____, 2016 at _____ am, or as soon thereafter as counsel may be heard, why an order should not be made and entered herein prohibiting defendants from engaging in any lien or levy collection activity against Plaintiff Robert L. Schulz pursuant to the Notice of Penalty Charge by the Internal Revenue Service, dated March 9, 2015, (a copy of which is included in the Amended Complaint as Exhibit A), pending a final determination of this case and any appeal therefrom.

SUFFICIENT CAUSE APPEARING, IT IS ORDERED, that in the meantime, and until the determination of the motion brought on by this Order to Show Cause, defendants shall on or before the ____ day of January, 2016 remove, cancel and otherwise release the Notice of Federal Tax Lien against ROBERT L. SCHULZ, dated November 24, 2015 and filed in the

office of the Warren County Clerk, Warren County, Lake George, NY 12845 (a copy of which is included in the Amended Complaint as Exhibit L).

LET service of these papers be effectuated by personal service, facsimile or overnight delivery service, on or before the _____ day of _____, 2016 be good and sufficient service.

Signed this _____ day of _____, 2016

Hon.

TO: Richard Tartunian
United States Attorney
For the Northern District of New York
U.S. Courthouse
445 Broadway
Albany, NY

Greg Seador
CTS, Northern Region
U.S. Department of Justice
P.O. Box 55
Ben Franklin Station
Washington, D.C. 20044
Direct Line 202-307-2182
Fax No. 202-514-5238

Robert L. Schulz
2458 Ridge Road
Queensbury, NY 12804
Home: 518-656-3578
Cell: 518-361-8153

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

ROBERT L. SCHULZ,)	
Plaintiff)	CASE No. 1:15-cv-1299
)	
v.)	BKS/CFH
)	
UNITED STATES, et al.,)	
)	
Defendants)	

AFFIDAVIT BY ROBERT L. SCHULZ

ROBERT L. SCHULZ (hereinafter "I", "Schulz", or "Plaintiff") declares under penalty of perjury:


1. I am the Plaintiff in the matter captioned above.
2. I make this affidavit in support of the motion brought on by Order to Show Cause to prohibit defendants from engaging in any lien or other collection activity against Schulz pursuant to the Notice of Penalty Charge by the Internal Revenue Service, dated March 9, 2015 (a copy of which is included in the Amended Complaint as Exhibit A), pending a final determination of the underlying Complaint and any appeal therefrom.
3. In 2003, in his capacity as Chairman of We The People Foundation for Constitutional Education, Inc. Schulz mailed 225 copies of a Blue Folder containing a Petition for Redress of Grievances relating to the government's practice of forcing companies to withhold taxes from employees before those taxes were due and owing.
4. In his individual capacity, Schulz received zero gross income from the activity.
5. In 2007, this Court granted IRS's motion for a summary judgment against Schulz and the two organizations that, in effect, declared the distribution of the Petitions for Redress to be

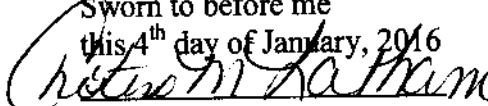
a promotion of an abusive tax shelter and therefore, in the Court's opinion, a violation of the activity prohibited by IRC 6700.

6. IRS did not request and the Court did not impose a financial penalty against Schulz in his individual capacity.
7. However, on November 24, 2014, defendant IRS penalized Schulz, in his individual capacity, in the amount of \$225,000, \$1,000 for each of the 225 Blue Folders.
8. On April 6, 2015, Schulz timely and legally paid a partial amount of the penalty and timely and legally appealed to the IRS by timely and legally claiming a refund, which filing included documentary evidence sufficiently proving Schulz, in his individual capacity, received zero gross income from the activity.
9. On November 2, 2015, having received no word from the IRS regarding its resolution of said appeal and faced with the deadline imposed IRC 6703(c)(2), Schulz timely appealed to the Court for a determination that his liability was zero, by filing an and serving the Complaint in the matter captioned above.
10. In sum, the Complaint seeks the entry of an Order determining Plaintiff Schulz's liability for a civil penalty under IRC Section 6700(a) to be zero on the ground that the gross income derived or to be derived by Schulz from the prohibited activity is zero.
11. On November 24, 2015, in spite of the instant Complaint and the law forbidding the making of any levy for the collection of the remainder of the penalty while the matter is on appeal in this Court, defendant IRS began its collection activity by levying a \$225,000 Section 6700 tax lien in the office of the Warren County Clerk against Schulz's property, including his home and the land it sits on, pending the payment of the remainder of the IRC Section 6700 tax assessment which amounts to \$224,000 plus interest.

12. Since 1988, in order to pay his property taxes, Schulz has relied on the sale of parcels of his land attached to his homestead, approximately two acres at a time.¹
13. Schulz has been in the process of selling a 2.4 acre parcel in order to pay his property taxes due and owing.
14. Pending the sale of the 2.4 acre parcel Schulz borrowed \$5,600 to pay his school taxes last fall.
15. On December 30, 2015, Schulz received his property tax bill, totaling \$7,183.91.
16. In addition, on December 30, 2015, DOJ informed Schulz they would be filing a motion to dismiss the instant Complaint, meaning the instant case is not likely to be settled anytime soon.
17. Today, January 4, 2016, I filed an Amended Complaint to request a jury trial, to bring the facts up to date, to add a second cause of action and to generally smooth out the language.
18. Wherefore, Plaintiff respectfully requests the entry of an Order prohibiting defendants from engaging in any lien or levy collection activity against Schulz pursuant to the Notice of Penalty Charge by the Internal Revenue Service, dated March 9, 2015, (a copy of which is included in the Amended Complaint as Exhibit A), pending a final determination of the Complaint and any appeal therefrom.

Respectfully submitted,


ROBERT L. SCHULZ
2458 Ridge Road,
Queensbury, NY 12804
(510) 656-3578

Sworn to before me
this 4th day of January, 2016

Notary

CHRISTINE M. LATHAM
Notary Public, State of New York
Warren County No. 04LA6234169
Commission Expires Jan. 18, 2019

¹ Schulz and his wife of 53 years have no other ready source of income, other than a monthly social security check.